

House _____ Amendment NO. _____

Offered By

1 AMEND House Bill No. 2, Page 10, Section 217.703, Line 101, by inserting after all of said section
2 and line the following:

3
4 "455.040. 1. Not later than fifteen days after the filing of a petition that meets the
5 requirements of section 455.020, a hearing shall be held unless the court deems, for good cause
6 shown, that a continuance should be granted. At the hearing, if the petitioner has proved the
7 allegation of domestic violence, stalking, or sexual assault by a preponderance of the evidence, and
8 the respondent cannot show that his or her actions alleged to constitute abuse were otherwise
9 justified under the law, the court shall issue a full order of protection for a period of time the court
10 deems appropriate, except that the protective order shall be valid for at least one hundred eighty
11 days and not more than one year. Upon motion by the petitioner, and after a hearing by the court,
12 the full order of protection may be renewed for a period of time the court deems appropriate, except
13 that the protective order shall be valid for at least one hundred eighty days and not more than one
14 year from the expiration date of the originally issued full order of protection. The court may, upon
15 finding that it is in the best interest of the parties, include a provision that any full order of
16 protection for one year shall automatically renew unless the respondent requests a hearing by thirty
17 days prior to the expiration of the order. If for good cause a hearing cannot be held on the motion to
18 renew or the objection to an automatic renewal of the full order of protection prior to the expiration
19 date of the originally issued full order of protection, an ex parte order of protection may be issued
20 until a hearing is held on the motion. When an automatic renewal is not authorized, upon motion by
21 the petitioner, and after a hearing by the court, the second full order of protection may be renewed
22 for an additional period of time the court deems appropriate, except that the protective order shall be
23 valid for at least one hundred eighty days and not more than one year. For purposes of this
24 subsection, a finding by the court of a subsequent act of domestic violence, stalking, or sexual
25 assault is not required for a renewal order of protection.

26 2. The court shall cause a copy of the petition and notice of the date set for the hearing on
27 such petition and any ex parte order of protection to be served upon the respondent as provided by
28 law or by any sheriff or police officer at least three days prior to such hearing. The notice of the
29 date set for hearing shall include a statement, in ten point capital letters, which shall read
30 substantially as follows: "IF YOU FAIL TO APPEAR BEFORE THIS COURT ON THE DATE,
31 TIME, AND LOCATION ON THIS NOTICE, THE COURT MAY FIND IN FAVOR OF
32 PETITIONER AND MAY TEMPORARILY ENJOIN YOU FROM POSSESSING FIREARMS."
33 The court shall cause a copy of any full order of protection to be served upon or mailed by certified
34 mail to the respondent at the respondent's last known address. Notice of an ex parte or full order of
35 protection shall be served at the earliest time, and service of such notice shall take priority over
36 service in other actions, except those of a similar emergency nature. Failure to serve or mail a copy

Action Taken _____ Date _____

1 of the full order of protection to the respondent shall not affect the validity or enforceability of a full
2 order of protection.

3 3. A copy of any order of protection granted pursuant to sections 455.010 to 455.085 shall
4 be issued to the petitioner and to the local law enforcement agency in the jurisdiction where the
5 petitioner resides. The clerk shall also issue a copy of any order of protection to the local law
6 enforcement agency responsible for maintaining the Missouri uniform law enforcement system or
7 any other comparable law enforcement system the same day the order is granted. The law
8 enforcement agency responsible for maintaining MULES shall, for purposes of verification, within
9 twenty-four hours from the time the order is granted, enter information contained in the order
10 including but not limited to any orders regarding child custody or visitation and all specifics as to
11 times and dates of custody or visitation that are provided in the order. A notice of expiration or of
12 termination of any order of protection or any change in child custody or visitation within that order
13 shall be issued to the local law enforcement agency and to the law enforcement agency responsible
14 for maintaining MULES or any other comparable law enforcement system. The law enforcement
15 agency responsible for maintaining the applicable law enforcement system shall enter such
16 information in the system within twenty-four hours of receipt of information evidencing such
17 expiration or termination. The information contained in an order of protection may be entered in
18 the Missouri uniform law enforcement system or comparable law enforcement system using a direct
19 automated data transfer from the court automated system to the law enforcement system.

20 4. The court shall cause a copy of any objection filed by the respondent and notice of the
21 date set for the hearing on such objection to an automatic renewal of a full order of protection for a
22 period of one year to be personally served upon the petitioner by personal process server as
23 provided by law or by a sheriff or police officer at least three days prior to such hearing. Such
24 service of process shall be served at the earliest time and shall take priority over service in other
25 actions except those of a similar emergency nature.

26 455.085. 1. When a law enforcement officer has probable cause to believe a party has
27 committed a violation of law amounting to domestic violence, as defined in section 455.010, against
28 a family or household member, the officer may arrest the offending party whether or not the
29 violation occurred in the presence of the arresting officer. When the officer declines to make arrest
30 pursuant to this subsection, the officer shall make a written report of the incident completely
31 describing the offending party, giving the victim's name, time, address, reason why no arrest was
32 made and any other pertinent information. Any law enforcement officer subsequently called to the
33 same address within a twelve-hour period, who shall find probable cause to believe the same
34 offender has again committed a violation as stated in this subsection against the same or any other
35 family or household member, shall arrest the offending party for this subsequent offense. The
36 primary report of nonarrest in the preceding twelve-hour period may be considered as evidence of
37 the defendant's intent in the violation for which arrest occurred. The refusal of the victim to sign an
38 official complaint against the violator shall not prevent an arrest under this subsection.

39 2. When a law enforcement officer has probable cause to believe that a party, against whom
40 a protective order has been entered and who has notice of such order entered, has committed an act
41 of abuse in violation of such order, the officer shall arrest the offending party-respondent whether or
42 not the violation occurred in the presence of the arresting officer. Refusal of the victim to sign an
43 official complaint against the violator shall not prevent an arrest under this subsection.

44 3. When an officer makes an arrest, the officer is not required to arrest two parties involved
45 in an assault when both parties claim to have been assaulted. The arresting officer shall attempt to
46 identify and shall arrest the party the officer believes is the primary physical aggressor. The term
47 "primary physical aggressor" is defined as the most significant, rather than the first, aggressor. The
48 law enforcement officer shall consider any or all of the following in determining the primary

1 physical aggressor:

- 2 (1) The intent of the law to protect victims from continuing domestic violence;
3 (2) The comparative extent of injuries inflicted or serious threats creating fear of physical
4 injury;
5 (3) The history of domestic violence between the persons involved.
6

7 No law enforcement officer investigating an incident of domestic violence shall threaten the arrest
8 of all parties for the purpose of discouraging requests or law enforcement intervention by any party.
9 Where complaints are received from two or more opposing parties, the officer shall evaluate each
10 complaint separately to determine whether the officer should seek a warrant for an arrest.

11 4. In an arrest in which a law enforcement officer acted in good faith reliance on this
12 section, the arresting and assisting law enforcement officers and their employing entities and
13 superiors shall be immune from liability in any civil action alleging false arrest, false imprisonment
14 or malicious prosecution.

15 5. When a person against whom an order of protection has been entered fails to surrender
16 custody of minor children to the person to whom custody was awarded in an order of protection, the
17 law enforcement officer shall arrest the respondent, and shall turn the minor children over to the
18 care and custody of the party to whom such care and custody was awarded.

19 6. The same procedures, including those designed to protect constitutional rights, shall be
20 applied to the respondent as those applied to any individual detained in police custody.

21 7. A violation of the terms and conditions, with regard to domestic violence, stalking,
22 sexual assault, child custody, possession of a firearm, communication initiated by the respondent or
23 entrance upon the premises of the petitioner's dwelling unit or place of employment or school, or
24 being within a certain distance of the petitioner or a child of the petitioner, of an ex parte order of
25 protection of which the respondent has notice, shall be a class A misdemeanor unless the respondent
26 has previously pleaded guilty to or has been found guilty in any division of the circuit court of
27 violating an ex parte order of protection or a full order of protection within five years of the date of
28 the subsequent violation, in which case the subsequent violation shall be a class E felony. Evidence
29 of prior pleas of guilty or findings of guilt shall be heard by the court out of the presence of the jury
30 prior to submission of the case to the jury. If the court finds the existence of such prior pleas of
31 guilty or finding of guilt beyond a reasonable doubt, the court shall decide the extent or duration of
32 sentence or other disposition and shall not instruct the jury as to the range of punishment or allow
33 the jury to assess and declare the punishment as a part of its verdict.

34 8. A violation of the terms and conditions, with regard to domestic violence, stalking,
35 sexual assault, child custody, possession of a firearm, communication initiated by the respondent or
36 entrance upon the premises of the petitioner's dwelling unit or place of employment or school, or
37 being within a certain distance of the petitioner or a child of the petitioner, of a full order of
38 protection shall be a class A misdemeanor, unless the respondent has previously pleaded guilty to or
39 has been found guilty in any division of the circuit court of violating an ex parte order of protection
40 or a full order of protection within five years of the date of the subsequent violation, in which case
41 the subsequent violation shall be a class E felony. Evidence of prior pleas of guilty or findings of
42 guilt shall be heard by the court out of the presence of the jury prior to submission of the case to the
43 jury. If the court finds the existence of such prior plea of guilty or finding of guilt beyond a
44 reasonable doubt, the court shall decide the extent or duration of the sentence or other disposition
45 and shall not instruct the jury as to the range of punishment or allow the jury to assess and declare
46 the punishment as a part of its verdict. For the purposes of this subsection, in addition to the notice
47 provided by actual service of the order, a party is deemed to have notice of an order of protection if:

- 48 (1) The law enforcement officer responding to a call of a reported incident of domestic

1 violence, stalking, sexual assault, or violation of an order of protection presented a copy of the order
2 of protection to the respondent; or

3 (2) The notice of the date set for hearing served upon the respondent contains the statement
4 required under subsection 2 of section 455.040.

5 9. Good faith attempts to effect a reconciliation of a marriage shall not be deemed
6 tampering with a witness or victim tampering under section 575.270.

7 10. Nothing in this section shall be interpreted as creating a private cause of action for
8 damages to enforce the provisions set forth herein."; and

9
10 Further amend said bill, Page 21, Section 488.4358, Line 7, by inserting after all of said section and
11 line the following:

12
13 "565.225. 1. As used in this section and section 565.227, the term "disturbs" shall mean to
14 engage in a course of conduct directed at a specific person that serves no legitimate purpose and that
15 would cause a reasonable person under the circumstances to be frightened, intimidated, or
16 emotionally distressed.

17 2. A person commits the offense of stalking in the first degree if he or she purposely,
18 through his or her course of conduct, disturbs or follows with the intent of disturbing another person
19 and:

20 (1) Makes a threat communicated with the intent to cause the person who is the target of the
21 threat to reasonably fear for his or her safety, the safety of his or her family or household member,
22 or the safety of domestic animals or livestock as defined in section 276.606 kept at such person's
23 residence or on such person's property. The threat shall be against the life of, or a threat to cause
24 physical injury to, or the kidnapping of the person, the person's family or household members, or
25 the person's domestic animals or livestock as defined in section 276.606 kept at such person's
26 residence or on such person's property; or

27 (2) At least one of the acts constituting the course of conduct is in violation of an order of
28 protection and the person has received actual notice of such order; or

29 (3) At least one of the actions constituting the course of conduct is in violation of a
30 condition of probation, parole, pretrial release, or release on bond pending appeal; or

31 (4) At any time during the course of conduct, the other person is seventeen years of age or
32 younger and the person disturbing the other person is twenty-one years of age or older; or

33 (5) He or she has previously been found guilty of domestic assault, violation of an order of
34 protection, or any other crime where the other person was the victim; or

35 (6) At any time during the course of conduct, the other person is a participant of the address
36 confidentiality program under sections 589.660 to 589.681, and the person disturbing the other
37 person knowingly accesses or attempts to access the address of the other person.

38 3. Any law enforcement officer may arrest, without a warrant, any person he or she has
39 probable cause to believe has violated the provisions of this section.

40 4. This section shall not apply to activities of federal, state, county, or municipal law
41 enforcement officers conducting investigations of any violation of federal, state, county, or
42 municipal law.

43 5. The offense of stalking in the first degree is a class E felony, unless the defendant has
44 previously been found guilty of a violation of this section or section 565.227, or any offense
45 committed in another jurisdiction which, if committed in this state, would be chargeable or
46 indictable as a violation of any offense listed in this section or section 565.227, or unless the victim
47 is intentionally targeted as a law enforcement officer, as defined in section 556.061, or the victim is
48 targeted because he or she is a relative within the second degree of consanguinity or affinity to a law

1 enforcement officer, in which case stalking in the first degree is a class D felony.

2 6. For the purposes of this section, in addition to the notice provided by actual service of the
3 order, a party is deemed to have notice of an order of protection if:

4 (1) The law enforcement officer responding to a call of a reported incident of domestic
5 violence, stalking, sexual assault, or violation of an order of protection presented a copy of the order
6 of protection to the respondent; or

7 (2) The notice of the date set for hearing served upon the respondent contains the statement
8 required under subsection 2 of section 455.040.

9 571.070. 1. A person commits the offense of unlawful possession of a firearm if such
10 person knowingly has any firearm in his or her possession and:

11 (1) Such person has been convicted of a felony under the laws of this state, or of a crime
12 under the laws of any state or of the United States which, if committed within this state, would be a
13 felony; ~~or~~

14 (2) Such person is subject to a full order of protection as defined in section 455.010; or

15 (3) Such person is a fugitive from justice, is habitually in an intoxicated or drugged
16 condition, or is currently adjudged mentally incompetent.

17 2. Unlawful possession of a firearm is a class D felony.

18 3. The provisions of subdivision (1) of subsection 1 of this section shall not apply to the
19 possession of an antique firearm."; and

20
21 Further amend said bill by amending the title, enacting clause, and intersectional references
22 accordingly.